

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6389 OF 2025**

Khed Vyapari Dharmadaya Education Society,
Through its President and others ... Petitioners
vs.
Bhalchandra Ganpat Patne ... Respondent

**ALONG WITH
WRIT PETITION NO. 6386 OF 2025**

Meena Raj Patne and others ... Petitioners
vs.
Bhalchandra Ganpat Patne and others ... Respondents

Mr. P. D. Dalvi for petitioners in WP/6389/2025.

Mr. Rahul P. Kasbekar for petitioners in WP/6386/2025.

Mr. Drupad S. Patil, i/b. Mr. Namitkumar S. Pansare for respondents in both the petitions.

**CORAM : MANISH PITALE, J.
DATE : 11th JUNE, 2025**

P.C. :

. Heard learned counsel for the petitioners and the contesting respondent in both the petitions.

2. The petitioners are aggrieved by order dated 07.04.2025 passed by the Joint Charity Commissioner, Kolhapur region, whereby an appeal filed by the contesting respondent was allowed, order dated 21.11.2024 passed by the Assistant Charity Commissioner, Ratnagiri was set aside and directions were issued for appointing an Inspector from the office of Assistant Charity Commissioner, Ratnagiri as fit person to manage the day-to-day affairs of the Trust and further directions for holding elections in the facts and circumstances of the case.

3. The learned counsel for the rival parties have made vehement submissions on facts as well as law and the bone of contention appears to be the manner in which the Assistant Charity Commissioner passed the order dated 21.11.2024, accepting the change report filed by the reporting trustees, pursuant to an election held, as a consequence of directions issued under Section 41A of the Maharashtra Public Trusts Act, 1950.

4. In order to appreciate the rival contentions, it would be appropriate to briefly refer to the chronology of events.

5. The controversy in the present case dates back to the year 2010, when an election was conducted on 07.04.2010 for the period 2010-2015 and a change report bearing Change Report Application No.172 of 2010 was filed before the Assistant Charity Commissioner. On 24.05.2012, the said authority rejected the change report. The order was challenged by way of an appeal bearing No.48 of 2012, which was dismissed by an order dated 16.09.2016. It is a matter of record that the said order was then challenged by the petitioner No.2 in present Writ Petition No.6389 of 2025, by way of Appeal No.66 of 2016, which was also recently dismissed on 19.04.2025. This Court is informed that the said order of District Court is now being challenged by filing of writ petition.

6. It is significant to note that while the aforesaid change report pertaining to election of the year 2010, stood rejected as far back as on 24.05.2012 and the rejection holds the field till date, it appears that certain persons were inducted as members of the Trust, some of whom are petitioners in Writ Petition No.6386 of 2025.

7. It appears that during the pendency of the proceedings arising out of the election that was conducted in the year 2010, further

elections could not be conducted, due to which applications came to be filed under Section 41A of the aforesaid Act before the Joint Charity Commissioner. The documents placed on record include an order dated 08.04.2019 passed by the Joint Charity Commissioner as also a subsequent order dated 26.10.2021 passed by the said authority issuing direction for conducting elections in the Trust.

8. It appears that in pursuance of the said direction, an officer of the office of the Assistant Charity Commissioner took up the process for finalisation of voters list and for conducting elections. The contesting respondent herein raised serious objection to inclusion of names of persons inducted as members after 2010 in the final voters list. The said objection was rejected. The contesting respondent in the writ petitions before this Court, challenged the rejection of objection by filing a writ petition. Subsequent to the elections being conducted, the writ petition was withdrawn.

9. Be that as it may, in pursuance of the said election being conducted, the petitioners in Writ Petition No.6389 of 2025 filed Change Report Application No.709 of 2024 before the Assistant Charity Commissioner. The said application was filed on 30.10.2024. It came to be allowed on 21.11.2024. Aggrieved by the same, the contesting respondent filed Appeal No.3 of 2025 before the Joint Charity Commissioner, wherein the impugned order has been passed. By allowing the appeal of the contesting respondent, the Joint Charity Commissioner gave findings to the effect that the change report was hastily allowed and that proper opportunity of hearing was not given to the objectors. After taking into consideration the basic controversy pertaining to the question as to who could be said to be valid members of the Trust, the Joint Charity Commissioner came to a conclusion that the order passed by the Assistant Charity

Commissioner was unsustainable. Accordingly, it was set aside and the aforementioned ancillary directions were issued.

10. Having considered the rival submissions, this Court finds substance in the contentions raised on behalf of the contesting respondent. The manner in which the Assistant Charity Commissioner hastily allowed the change report within less than a month from its filing i.e. on 21.11.2024 itself, not only shows the tearing hurry with which the aforesaid authority proceeded in the matter, but also demonstrates that the requirement of law under Section 22 of the aforesaid Act, particularly sub-section 2 thereof, was not followed at all by the Assistant Charity Commissioner.

11. A perusal of the relevant portion of Section 22 of the aforesaid Act is necessary in this regard and it reads as follows:

“22. Change.—

(1) ***

(2) For the purpose of verifying the correctness of the entries in the register kept under section 17 or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Deputy or Assistant Charity Commissioner may [hold an inquiry in the prescribed manner]:

[Provided that, in the case of change in the names and addresses of the trustees and the managers or the mode of succession to the office of the trusteeship and managership, the Deputy or Assistant Charity Commissioner may pass order provisionally accepting the change within period of fifteen working days and issue a notice inviting objections to such change within thirty days from the date of publication of such notice :

Provided further that, if no objections are received within the said period of thirty days, the order accepting the change provisionally under the first proviso shall become final and entry thereof shall

be taken in the register kept under section 17 in the prescribed manner:

Provided also that, if no objection are received within the said period of thirty days, the Deputy or Assistant Charity Commissioner may hold an enquiry in the prescribed manner and record a finding, as provided by sub-section (3) of this section, within three months from the date of filing objections.]”

12. A perusal of the above-quoted portion shows that the Act mandates the Assistant Charity Commissioner to only provisionally accept the change within a period of 15 working days and then to issue notice inviting objections to the change report within 30 days of publication of such notice. It is only if objections are not received within the said period of 30 days, that the provisional acceptance of change, would attain finality.

13. In the present case, the timelines itself show that the Assistant Charity Commissioner blatantly violated the aforesaid mandate of law. It is an admitted position that the change report was filed before the Assistant Charity Commissioner on 30.10.2024 and the order accepting the change report itself was passed on 21.11.2024. In other words, the said order was passed on the 22nd day of the change report having been filed. This clearly shows that the requirement of inviting objections to change within a period of 30 days, as contemplated under the proviso of sub-section 2 of Section 22 of the said Act, was violated and therefore, the Joint Charity Commissioner was clearly justified in holding that the Assistant Charity Commissioner failed to afford opportunity for raising objection and that the change report was hastily accepted. No error can be attributed to the Joint Charity Commissioner in rendering such findings. The order passed by the Assistant Charity Commissioner on

21.11.2024, accepting the change report, was clearly rendered unsustainable.

14. At this stage, the learned counsel appearing for the petitioners vehemently submitted that if it was a case of violation of mandatory provisions of law and also violation of principles of natural justice, the Joint Charity Commissioner ought to have remanded the matter to the Assistant Charity Commissioner, instead of issuing directions to appoint an officer to manage the day-to-day affairs of the Trust, further issuing directions for holding elections from amongst valid members of the Trust upto 2010. It was submitted that such a submission was specifically made before the Joint Charity Commissioner and yet, the impugned directions were issued.

15. This Court is unable to accept the said contention raised on behalf of the petitioners, for the reason that the crux of the controversy appears to be revolving around the question as to whether members inducted after 2010, could be said to be valid members of the Trust having the right to vote at the election.

16. As noted hereinabove, such members were inducted after 2010. In the light of the change report submitted in pursuance of election held in 2010 being rejected as far back as in 2012 and it being confirmed upto the District Court by dismissal of the appeal by order dated 19.04.2025, a strong case is made out for the contesting respondent to canvass that no such persons inducted as members post-2010, could be allowed to participate in the election even if such election was conducted in pursuance of directions issued under Section 41A of the aforesaid Act.

17. As on today, this Court finds that the members inducted post-2010 were inducted in a situation where the change report submitted

in the year 2010, was rejected and the said order still holds the field.

18. It is also relevant to note here that those inducted as members post-2010 had also sought to intervene by filing applications before the Joint Charity Commissioner in the proceeding initiated under Section 41A of the said Act. Such interim applications were rejected by the said authority, indicating that the authorities under the Act were conscious of the fact that such persons were inducted as members, even when the body which inducted them itself could not succeed in the change report submitted in the year 2010. In such a situation, it cannot be said that the Joint Charity Commissioner erred in issuing the impugned directions.

19. A perusal of the impugned order shows that the Joint Charity Commissioner not only set aside the erroneous and defective order dated 21.11.2024 passed by the Assistant Charity Commissioner, but also issued ancillary direction for appointment of Inspector in the office of the Assistant Charity Commissioner, Ratnagiri to manage the day-to-day affairs of the Trust, with a further direction to the valid members of the Trust to take decision on holding elections from amongst such members and then to take appropriate decision on members enrolled after 2010 or to await decision of the appeal pending before the District Court. It is also noted that the appeal subsequently stood dismissed on 19.04.2025. Although the said order appears to have been challenged, that in itself cannot inure to the benefit of the petitioners, for the reasons recorded hereinabove.

20. In view of the above, this Court finds that there is no substance in the petitions. Accordingly, they are dismissed.

(MANISH PITALE, J)